

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 FREDERICK H. SHULL JR.,

4 Plaintiff

5 v.

6 THE UNIVERSITY OF QUEENSLAND, et
7 al.,

8 Defendants

Case No.: 2:18-cv-01781-APG-BNW

Order Denying Motion to Transfer

[ECF No. 114]

9 Plaintiff Frederick Shull moves to transfer this case to the Eastern District of Louisiana
10 under 28 U.S.C. § 1404(a). Pursuant to § 1404(a), a district court may transfer a civil action to
11 another district “[f]or the convenience of parties and witnesses, in the interest of justice”
12 The transferor court may transfer only to a district or division where the action “might have been
13 brought” originally or one “to which all parties have consented.” 28 U.S.C. § 1404(a). The
14 transferor court must find both that the action might have been brought in the transferee court
15 and that the parties’ and witnesses’ convenience, in the interest of justice, favors transfer. *Hatch*
16 *v. Reliance Ins. Co.*, 758 F.2d 409, 414 (9th Cir. 1985).

17 A suit “might have been brought” in a district if the “plaintiff has a right to sue in that
18 district, independently of the wishes of defendant.” *Hoffman v. Blaski*, 363 U.S. 335, 344 (1960)
19 (quotation omitted). The transferee court thus must be a proper venue and have personal
20 jurisdiction over the defendant “when suit was instituted.” *Id.* at 343 (quotation omitted); *see*
21 *also Washington Pub. Util. Group v. U.S. Dist. Ct. for W. Dist. of Wash.*, 843 F.2d 319, 328 (9th
22 Cir. 1987) (stating that “a district court must have both personal jurisdiction over the parties and
23 venue to hear a case”).

1 In determining whether transfer is convenient and in the interests of justice, factors to
2 consider include:

3 (1) the location where the relevant agreements were negotiated and
4 executed, (2) the state that is most familiar with the governing law,
5 (3) the plaintiff's choice of forum, (4) the respective parties'
6 contacts with the forum, (5) the contacts relating to the plaintiff's
7 cause of action in the chosen forum, (6) the differences in the costs
of litigation in the two forums, (7) the availability of compulsory
process to compel attendance of unwilling non-party witnesses,
and (8) the ease of access to sources of proof.

8 *Jones v. GNC Franchising, Inc.*, 211 F.3d 495, 498-99 (9th Cir. 2000). There is no "exhaustive
9 list of specific factors to consider," and courts "should weigh any case-specific factors relevant
10 to convenience and fairness to determine whether transfer is warranted." *In re Apple, Inc.*, 602
11 F.3d 909, 912 (8th Cir. 2010) (internal quotation marks omitted). "Litigation of related claims in
12 the same tribunal is favored in order to avoid duplicitous litigation, attendant unnecessary
13 expense, loss of time to courts, witnesses and litigants, and inconsistent results." *Cambridge*
14 *Filter Corp. v. Int'l Filter Co., Inc.*, 548 F. Supp. 1308, 1310 (D. Nev. 1982). Thus, it is "well
15 established that the existence of a related action pending in the transferee court weighs heavily
16 towards transfer." *JetBlue Airways Corp. v. Helferich Patent Licensing, LLC*, 960 F. Supp. 2d
17 383, 400-01 (E.D.N.Y. 2013).

18 The party seeking the transfer bears the burden of showing transfer is appropriate. *In re*
19 *Apple, Inc.*, 602 F.3d at 913. The decision whether to transfer lies within the court's discretion.
20 *Ventress v. Japan Airlines*, 486 F.3d 1111, 1118 (9th Cir. 2007).

21 Shull has not established that this action could have been brought originally in the
22 Eastern District of Louisiana. He does not show, for example, that all of the defendants are
23

1 subject to personal jurisdiction in that District. I therefore deny the motion, without prejudice to
2 Shull filing a fully supported motion to transfer or filing a new lawsuit in Louisiana.

3 IT IS THEREFORE ORDERED that plaintiff Frederick Shull, Jr.'s motion to transfer
4 venue (**ECF No. 114**) is **DENIED**.

5 DATED this 12th day of September, 2019.



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE